

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 08-CR-823 (NGG)

-against-

United States Courthouse  
Brooklyn, New York

JOHN DOE,

January 28, 2009  
4:30 p.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR MOTION TO CLOSE COURTROOM  
BEFORE THE HONORABLE NICHOLAS G. GARAUFI  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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Marie Foley, RPR, CRR  
Official Court Reporter

1 (Open court.)

2 COURTROOM DEPUTY: All rise.

3 (Judge Garaufis takes the bench.)

4 COURTROOM DEPUTY: Criminal cause for a motion.

5 Counsel, please state your appearances.

6 MR. LOONAM: James Loonam and Jeff Knox for the

7 United States. Good afternoon, your Honor.

8 THE COURT: Good afternoon.

9 MR. KAMDANG: Good afternoon. Len Kamdang on behalf  
10 of Bryant Vinas who should be on his way in from the back.

11 THE COURT: We have to deal with the motion first.

12 MR. LOONAM: Yes, your Honor. The Government moves  
13 to close the courtroom.

14 The Government has complied with the procedures set  
15 forth by the Second Circuit in the United States v. Alcantara.  
16 We submitted papers under seal to your Honor on this issue.

17 We would note that the motion to close the  
18 courtroom, this hearing, was listed on today's daily court  
19 calendar which was published to the public yesterday, and the  
20 hearing on the motion was also noted on the docket sheet.

21 We would note that there's compelling government  
22 interests in closing the courtroom, and that compelling  
23 government interest would be prejudiced if the courtroom were  
24 not closed, that there's no reasonable alternative to the  
25 closing the courtroom, and that the compelling interests of

1 the Government outweighs the qualified First Amendment right  
2 that exists to public access to this proceeding.

3 Therefore, the Government requests that your Honor  
4 enter the proposed order which the Government submits is  
5 narrowly tailored to protect the compelling government  
6 interest that exists in this case.

7 MR. KAMDANG: We join in the Government's motion.

8 THE COURT: All right. The Court has reviewed the  
9 submission of the United States of America seeking an order to  
10 close the courtroom and compliance with the procedures set  
11 forth in the United States versus Alcantara, 396 F.3d. 189,  
12 Second Circuit 2005. Having reviewed the Government's  
13 submission and held a public hearing on the motion at which  
14 the parties and any intervenors have been provided an  
15 opportunity to be heard, based on the submissions of the  
16 parties, the Court makes the following findings:

17 One, there is a substantial probability that a  
18 public guilty plea would prejudice a compelling interest of  
19 the Government in the integrity of significant government  
20 activities entitled to confidentiality, including ongoing  
21 investigations of serious and violent crimes.

22 Second, there is a substantial probability that a  
23 public guilty plea would prejudice a compelling interest of  
24 the Government in gathering information of potential  
25 importance to protect the national security.

1 Third, no reasonable alternatives to closure of the  
2 courtroom exist that can adequately protect the compelling  
3 interests that would be prejudiced by a public proceeding  
4 identified by the Government and identified above.

5 Fourth, the prejudice to the compelling interests  
6 identified by the Government overrides the public's and the  
7 media's qualified First Amendment right to access the guilty  
8 plea.

9 Therefore, the motion to close the courtroom during  
10 the guilty plea is granted, and the closure of the courtroom  
11 is going to be narrowly tailored by requiring the Government,  
12 with advance notice to the defendant, to disclose the  
13 transcript as required by the Supreme Court case law and Rule  
14 16 of the Federal Rules of Criminal Procedure, and 18 U.S.C.  
15 3500.

16 MR. KAMDANG: Your Honor, just to make the record  
17 complete, we do waive my client's presence for the purposes of  
18 this motion.

19 THE COURT: All right.

20 I'm going to sign an order to that effect which also  
21 sets forth unsealing requirements for the transcript and  
22 indicates that the amending of the public docket to reflect  
23 the occurrence of the hearing on the motion to close the  
24 courtroom, the disposition of the motion, and the fact of the  
25 courtroom closure.

1           You can make your application to seal the transcript  
2 of the guilty plea at the end.

3           MR. LOONAM: Yes, your Honor.

4           THE COURT: I'm going to need your representation  
5 that everyone in the courtroom currently is authorized to be  
6 here either in addition to the U.S. marshals, who we know.  
7 The others who are here are with you, and they're engaged in  
8 the investigation. Is that it?

9           MR. LOONAM: Correct, your Honor. Everyone in the  
10 courtroom is either with the Government or with the Federal  
11 Defenders office.

12          MR. KAMDANG: That's correct, your Honor.

13          THE COURT: Very well.

14          (At this time, the courtroom was closed and sealed.)  
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